HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No.9234 of 2005

Dated: 26th September, 2005

Between:

Burle Durga, W/o.Sri Jayaram,

R/o.Lodagalavanipalem panchayat,

Anandapuram Mandal, Visakhapatnam District.

..... PETITIONER

AND

1. Gram Panchayat rep. by its Secretary, Lodagalavanipalem,

Anandapuram Mandal, Visakhapatnam District and another.

.....RESPONDENTS

HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No. 9234 of 2005

ORDER:

This writ petition has been filed by Burle Durga with a prayer to issue any writ, order or direction, particularly one in the nature of Mandamus declaring the action of the respondent authorities in returning the plans on 18.04.2005 and interfering with the construction/renovation on the existing house in Survey No.308/2 of Lodagalavanipalem Panchayat of Anandapuram Mandal as arbitrary and illegal.

2. The petitioner claims that she is the owner of two acres of land in Survey No.308/2 in Lodagalavanipalem village, Anandapuram mandal. According to her, the land has been assigned to her under Proceedings DR.No.28/92 dated

07.11.1982. Pattadar Passbook also has been issued in her name and her name is mutated in the revenue records. She submitted a plan to the Gram Panchayat to raise the existing walls of the age-old house and put up a roof over the same. Her application along with plan came to be returned by the Gram Panchayat, Lodagalavanipalem-1st respondent. Assailing the action of the Gram Panchayat in returning the application, the petitioner has filed this writ petition invoking the jurisdiction under Article 226 of the Constitution of India with the prayer stated supra.

3. Counter affidavit has been filed by the respondents. Bammidi Suryanarayana has sworn to the counter affidavit. It is stated in the counter affidavit that the petitioner has to obtain permission from the Visakhpatnam Urban Development Authority (for short 'VUDA') as well as from the revenue authorities for conversion of the agricultural land into house plots. Para. 4 of the counter affidavit reads as follows:

> "I further humbly submit that in spite of refusing permission she is proceeding with the construction of the building illegally and high handedly in clear violation of Section 121 of the Andhra Pradesh Panchayat Raj Act, 1994. So, the gram panchayat has issued a notice dated 14.04.2005 instructing her not to proceed with the construction of the unauthorized building but she has not stopped the construction. Hence, the gram panchayat submitted representations to the District Collector and VUDA on 11.04.2005 as the said land is situated within the urban agglomeration of VUDA. In fact for the layout in the said land, permission of VUDA is also required. As the assigned land cannot be used for house sites, the MRO has addressed letter dated 14.04.2005 to the District Panchayat Officer informing the nature of land and violation of the conditions of assignment. But, as no action was taken by the District Collector, VUDA and MRO against the petitioner for demolition of unauthorized construction and for cancellation of assignment of the said land, the gram panchayat has filed W.P.No.10479 of 2005 and the same was disposed of on 28.04.2005 directing the District Collector, MRO and VUDA to take action against the petitioner and pass appropriate orders within a period of 4 weeks."

4. Heard learned counsel appearing for the petitioner and learned counsel appearing for the respondents.

5. Learned counsel appearing for the petitioner submits that the land in question is an assigned land and the permission sought for by the petitioner is only for effecting repairs to the existing thatched house.

6. Learned counsel appearing for the respondents submits that the land falls within the area of urban agglomeration of VUDA, and therefore, VUDA is the competent authority for sanction of any lay out. He further submits that the petitioner is required to obtain permission from the revenue authorities for conversion of use of land from agricultural to non-agricultural. Keeping these aspects in view, the Gram panchayat has issued the impugned proceedings.

7. It is no more in dispute that the land in question falls within the urban agglomeration of VUDA. In that view of the matter, the order impugned in the writ petition cannot be found fault.

8. Accordingly, the writ petition is dismissed. No costs.

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B.SESHASAYANA REDDY, J.

Dated: 26th September, 2005.

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